

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 16, 2007

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 16, 2007, at 1:33 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; Don Anderson, Vice-Chair; Elizabeth Bishop; David Dennis; Michael Gisick; Bud Hentzen; Hoyt Hillman; Ronald Marnell; M.S. Mitchell; Don Sherman and G. Nelson Van Fleet. Bill Johnson, John W. McKay Jr. and Debra Miller Stevens were absent. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Christy Rodriguez, Associate Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

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1. Approval of the July 19 and August 2, 2007 MAPC minutes.

VAN FLEET requested that the record reflect that he was present at the meeting.

MOTION: To approve the minutes as amended.

VAN FLEET moved, **GISICK** seconded the motion, and it carried (11-0).

Approval of the August 2, 2007 MAPC minutes.

MOTION: To approve the minutes subject to staff recommendation.

VAN FLEET moved, **ANDERSON** seconded the motion, and it carried (11-0).

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2. A07-10 Consistency of the proposed unilateral annexation with the Wichita-Sedgwick County Comprehensive Plan. (District II)

CHRISTY RODRIGUEZ Planning Staff presented the staff report. She concluded by requesting that the MAPC find that unilateral annexation A07-10 was consistent with the Wichita-Sedgwick County Comprehensive Plan.

Responding to a question from **DENNIS** concerning whether the area was in or out of the 100-Year Floodplain, **RODRIGUEZ** commented that fourteen properties are within the 100-year floodplain according to the new Flood Insurance Rate Maps as adopted on February 2, 2007, but **RODRIGUEZ** was not sure if this area is one of the areas that the Public Works Department is questioning the accuracy of FEMA's new floodplain boundaries.

BISHOP asked for clarification of the map attached to the proposal.

MITCHELL said he would like to compliment staff on the excellent preparation of the proposal, which addressed issues such as the affect of the annexation, and also included a plan on how services would be provided. He said the MAPC should be given these items with each proposal.

PRESIDENT DOWNING asked staff about the need for a public hearing and if anyone from the audience wished to comment on the proposal.

DIRECTOR SCHLEGEL commented that the City Council would consider the item at the September 18, 2007 City Council Meeting.

HENTZEN said he would like to endorse what Mitchell said about staff's excellent preparation of the proposal. He also asked about the affect of "down zoning" (from "SF-20" Single-Family Residential to "SF-5" Single-Family Residential) the area.

HILLMAN commented that the owners of the larger lots could subdivide the lots and impact density in the area.

RODRIGUEZ explained that once annexation is complete, all lots would automatically be converted to "SF-5" Single-Family Residential.

There was brief discussion concerning the difference between "SF-5" Single-Family Residential and "SF-20" Single-Family Residential and the lot sizes.

RODRIGUEZ commented that the area is completely developed with the exception of three vacant lots. She said the possibility of subdividing the lots depends on where the structures are located on the parcels.

BISHOP asked if there were provisions within the private covenants that would prohibit subdivision?

Staff commented that they could not answer that question.

MOTION: That A07-10 unilateral annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan.

HILLMAN moved, **SHERMAN** seconded the motion, and it carried (11-0).

Chairman DOWNING announced that item #3-1, **SUB2006-12** was deferred until September.

❖ **Items # 3-1 through 3-3 may be taken in one motion unless there are questions or comments.**

Consideration of Subdivision Committee recommendations from the meeting of August 9, 2007.

3-1. SUB 2006-12: Final Plat - SEDGWICK COUNTY ARENA ADDITION, located east of Broadway and north of Maple Street.

NOTE: This is a replat of a portion of the N.A. English's Addition. This replat includes the vacation of Commerce Street St. Francis Street, English Street, Santa Fe St. and an alley.

STAFF COMMENTS:

- A. Existing water and sewer services will need to be abandoned and/or relocated. A petition or financial guarantee is needed.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. City Engineering has approved the applicant's drainage plan.
- D. The plat proposes four openings along Waterman and one opening along English. Traffic Engineering has approved access controls.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- F. Traffic Engineering has approved the right-of-way along perimeter streets.
- G. The plat boundaries need to be revised to exclude the alley running east-west. The "alley" designation shall be removed since this will be a public street. The width shall be increased to 40 feet in accordance with the site plan. A petition for paving or financial guarantee is needed.
- H. The plat has created a dead end alley running north-south extending from William Street. A turnaround is needed for the terminus of the alley. In the alternative, the alley may be vacated upon consent of the adjoining landowners.
- I. City Fire Department requests an internal circulation plan.
- J. GIS has requested that the alley be relabeled as English (primary choice) or Oakland (secondary choice).
- K. County Surveying advises that the plat needs dimensions of the triangular island in the northeasterly corner of plat.
- L. The railroad right-of-way adjoining the east line of the plat needs to be designated.
- M. County Surveying advises that the easements crossing in the southeasterly corner of the plat should be redrawn to show the waterline easement butting up to the drainage and utility easement to ensure that all utilities have access to this intersection.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can

be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

Deferred until September.

3-2. SUB 2007-68: One-Step Final Plat - OAK CLIFF ESTATES 7TH ADDITION, located on the northwest corner of Maple Street and Maize Road.

NOTE: This is a replat of Lot 1, Block 20, in the Oak Cliff Estates Addition and Lot 3, Block 1 in the Oak Cliff Estates 4th Addition. The Oak Cliff Estates Community Unit Plan (DP-104) was also approved for this site.

STAFF COMMENTS:

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. Traffic Engineering has required complete access control along Maple. Access to the site from Central may be obtained from the joint access easement adjoining the west property line. One opening is permitted along Maize Road at the north property line.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- F. The platting text shall include reference to "a lot and a block" in the owner's certificate.
- G. The Applicant needs to request a CUP adjustment, as the CUP parcel boundaries do not correspond with the area being platted and building setbacks need to be revised

- H. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- I. City Fire Department requests an internal circulation plan.
- J. The original plat should be deleted from the final plat tracing.
- K. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- L. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

ANDERSON moved, **MITCHELL** seconded the motion, and it carried (11-0).

3-3. SUB 2007-69: One-Step Final Plat - CITY HALL COMPLEX ADDITION, located on the southwest corner of Central and Main Street.

NOTE: This is a replat of portions of the Administrative Center Addition, Waterman's Addition, and the Center Addition. The plat includes the vacation of part of Wichita Street.

STAFF COMMENTS:

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. Access control needs to be platted along perimeter streets. The final plat tracing shall reference the dedication of access controls in the plat's text.
- E. Traffic Engineering has approved the right-of-way along perimeter streets.
- F. In the title block, the word "Addition" should be added.
- G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water

Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- O. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

ANDERSON moved, MITCHELL seconded the motion, and it carried (11-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

4-1. VAC 2007-23: Request to vacate a portion of a platted setback,

OWNER/APPLICANT: Michael A & Jewell A Unrein

AGENT: Tim Herian

LEGAL DESCRIPTION: Generally described as the platted 35-foot & 25-foot front yard building setbacks, located on Lot 12, Block 1, Crestview Country Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between 13th & 21st Streets North, on the west side of 127th Street East and southeast of Castlewood & Tallowood Drives (WCC #II)

REASON FOR REQUEST: Additional room to build a single-family residence

CURRENT ZONING: The site and all abutting and adjacent properties are zoned “SF-5” Single-family Residential.

The applicant proposes to vacate the platted 35-foot & 25-foot platted front yard setbacks. The Unified Zoning Code’s (UZC’s) minimum front yard setback for the “SF-5” Single-family Residential zoning district is 25-feet. If the setback were the minimum 25-foot setback per the UZC, an Administrative Adjustment could be applied to reduce the 25-foot setback by 20%; a 20-foot setback. There are platted easements (with sewer in one, but no water) that will not be affected by the vacated setbacks. There are no other utilities in the portions of the setbacks that are proposed to be vacated. The Bridgewood Addition was recorded with the Register of Deeds August 21, 1980. The Single-family residences around the vacant site were built between 1992-1995; the site is the last undeveloped lot in the subdivision.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility

representatives and other interested parties, Planning Staff recommends approval of the vacation of the platted setbacks with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time July 26, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted setbacks and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted setback, described in the petition should be approved with conditions:
1. The front setbacks will be 20-feet.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. If needed provide easements for utilities. Retain the existing platted easements that intersect the platted setback.
 3. All improvements shall be according to City standards and at the applicant's expense.
 4. [Per](#) MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The front setbacks will be 20-feet.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. If needed provide easements for utilities. Retain the existing platted easements that intersect the platted setbacks.
- (3) All improvements shall be according to City standards and at the applicant's expense.
- (4) [Per](#) MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendation.

GISICK moved, **SHERMAN** seconded the motion, and it carried (11-0).

4-2. VAC 2007-24: Request to vacate a platted alley.

APPLICANTS: Ali H. & David H. Tarhini, D & S Associates, Kamal & May A. Koury

AGENT: Young & Associates

LEGAL DESCRIPTION: The platted 20-foot wide alley located between Lot 3, Block 1, and Reserves A, B & C, all in the Replat of Part of Block 1, Purcell's 5th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located southeast of Edgemoor & Lincoln Avenues (WCC #III).

REASON FOR REQUEST: Control traffic and loitering from Southeast High School

CURRENT ZONING: The site is a platted, developed alley. Abutting northern and adjacent eastern properties are zoned "LC" Limited Commercial. Abutting southern properties are zoned "SF-5" Single-family Residential. Adjacent western property (Southeast High School) is zoned "TF-3" Duplex Residential.

The applicants are requesting vacation of the full length of the platted alley right-of-way (ROW) as described, for the reasons given on the cover page. The platlor's text does not give any specific uses for Reserves A, B & C. Reserves B & C are developed as a restaurant and a car sales lot (without a Conditional Use). Reserve A is owned by the owners of Lot 21, Block 1, Replat of Part of Block 1, Purcell's 5th Addition and it has a detached garage located on it, which is used by the house on Lot 21. There is sewer running north to south through the alley; a portion or the entire alley will be retained as an easement. Comments have not been received from franchised utilities and Storm Water to determine if they have utilities in the alley. There are no platted setbacks that would be affected by the vacation of the platted alley. Screening and landscaping standards would apply to the northern "LC" zoned properties. All four abutting properties are currently using the alley for access onto their properties and all four abutting property owners have signed the petition to vacate the alley. The Replat of Part of Block 1, Purcell's 5th Addition was recorded with the Register of Deeds March 3, 1950.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted alley ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time July 26, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted alley ROW and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted alley ROW described in the petition should be approved with conditions:
1. Retain the alley as an easement. If the vacated alley/now an easement is gated, access for all utility providers must be provided by the applicants with an approved method/lock-key.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
 3. All improvements shall be according to City Standards. Close the alley's access onto Edgemoor Avenue and provide a guarantee for continuation of the curbing, which must be to City Standards and at the owner's expense. Provide the City with a guarantee/petition for these improvements. These must be provided to Staff prior to the case going to WCC for final action.
 4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain the alley as an easement. If the vacated alley/now an easement is gated, access for all utility providers must be provided by the applicants with an approved method/lock-key.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (3) All improvements shall be according to City Standards. Close the alley's access onto Edgemoor Avenue and provide a guarantee for continuation of the curbing, which must be to City Standards and at the owner's expense. Provide the City with a guarantee/petition for these improvements. These must be provided to Staff prior to the case going to WCC for final action.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

BILL LONGNECKER Planning staff presented the staff report.

BISHOP said she is familiar with this area and the business at Edgemoor and Lincoln. She said she understood that it was zoned as an automobile repair shop with the ability to have 3-4 vehicles for sale at

the location. She said the sign has changed and it appears to have been turned into a used car lot. She requested that staff provide clarification of the exact zoning and what was allowed under the zoning.

LONGNECKER said the area is currently zoned "LC" Limited Commercial and that he was not aware if it had conditional use for limited car sales. He said that he could notify the Office of Central Inspection to see if the applicant was non-compliant.

Responding to a question from **HENTZEN** concerning whether the same individual owned the property just south of the vacation request, **LONGNECKER** responded by reading off the ownership list provided by the title company, noting that he was not sure what the relationships of the applicants were, but that all four abutting property owners had signed the application and petition and that their names were listed on the ownership list.

DAVID SPRINGOB, YOUNG AND ASSOCIATES ENGINEERS, 100 S. GEORGIA, DERBY, AGENT FOR THE APPLICANT said the applicant is in agreement with staff's comments including the guarantee for the continuation of curbing along the Edgemoor side of the alley. He also added that they understood that they had to provide solid screening along the south side of the car repair/car sales lot. Responding to a question from **HILLMAN** concerning the possible purchase of the reverted south 10 feet of alley from the homeowner to the south, he responded that no purchase was planned and that they planned to put the fence in the center of the alley.

CHARLOTTE FOSTER, 702 COURTLEIGH, WICHITA, introduced herself as the head of the neighborhood association and talked about the gangs, drugs and graffiti in the area. She understood that these were Police issues, but said she was for anything that would keep the kids out of the alley.

GISICK asked if **MS. FOSTER** was for or against the vacation request?

FOSTER said she was for the request.

HILLMAN clarified that **MS. FOSTER** approved of closing the alley and allowing **MR. TARHINI** to put a fence down the center of the alley.

VAN FLEET noted that, since **MS. FOSTER** had mentioned being head of the neighborhood association, he asked if she was at the meeting in an official capacity or a personal capacity? He also asked if the neighborhood association had taken a stand on the vacation request?

FOSTER said the neighborhood association hadn't taken a vote on the issue because they haven't met since she got notification of this case. She said she was present in a personal capacity.

DAVID H. TARHINI, 902 S. EDGEMOOR, OWNER/APPLICANT, appeared to answer questions.

HILLMAN clarified that the number of cars was limited to two. He asked if the purpose of **MR. TARHINI's** vacation request was to expand his business to the south?

TARHINI responded yes. After **LONGNECKER** made sure the applicant understood the question, **TARHINI** said they have not thought about expanding the business onto the residential property south of the alley, which he also owned.

Responding to a question from **HENTZEN** concerning expanding the business 10 feet into the alley if the vacation was approved, **LONGNECKER** explained that the alley was public right-of-way and as such had no zoning, but if the vacation was approved the alley would revert to private property and the abutting properties' base zoning was following their new property lines to the middle of the alley. The north 10-foot of the alley would become "LC" and the south 10-foot would become "SF-5". If the north "LC" zoned businesses were to buy the south properties 10-feet of reverted alley its "SF-5" zoning would

prevent expansion of their businesses into it. A Conditional Use or a Use Exception does not follow the expanded lot boundaries as the base zoning does.

BISHOP said she was concerned because once this location was approved for an auto repair shop, it looked like it was turned into a used car lot, including a big sign. She said although she believes the signage has changed, the lot is full of cars for sale. She commented that graffiti has been an on-going and continual problem in the area and added that vacating the alley would close the alley off to vehicular traffic, but not pedestrians. She concluded by saying that she also did not feel comfortable approving a vacation for this type of business across the street from an institution such as a school.

MOTION: To approve subject to staff recommendation.

BISHOP moved, **ANDERSON** seconded he motion and it carried (11-0).

❖ PUBLIC HEARINGS

5. **Case No.: ZON2007-28** – Harley J. Voth (owner), Robert W. Kaplan (agent) Request: City zone change from "LC" Limited Commercial to "GC" General Commercial on property described as;

BEGINNING 20 FEET SOUTH AND 450 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE EAST 109.9 FEET; THENCE SOUTH 132 FEET; THENCE WEST 109.9 FEET; THENCE NORTH 132 FEET TO BEGINNING. S24-T27S-R1W. Generally located Southwest of the intersection of West Douglas Avenue and North McComas Avenue (3825 W. Douglas Ave.)

BACKGROUND: The applicant owns an unplatted lot (0.33 acre in size) located 500 feet east of the intersection of West Street and Douglas Avenue, along the south side of Douglas. This lot is currently zoned LC and appears to be developed with a warehouse / storage type use. The applicant is seeking GC zoning with a Protective Overlay in order to conduct “vehicle repair, general” (auto painting) work at this location. The automobile painting would be located in the west 41.5 feet of the structure. The existing building on site would be utilized as the new auto detail shop. The shop would have garage door openings on the north side, facing Douglas Ave. The primary entrance and reception area would also be located on the north side of the building.

Surrounding uses include developed LC property (Lots 1, 2 and 3, Black and Towns Addition) located immediately north of the application area. North of the LC lot, are lots zoned “B” Multi-Family Residential and LC with multi-family development that faces McComas Ave. There are other single-family homes along McComas Ave. on “SF-5” Single-Family Residential zoned lots south of the subject site. There are also single-family and multi-family residences located along Illinois Avenue. Illinois Avenue is the first street west of the application area. There is residentially developed zoned land located immediately south of the application area (Lots 1 and 2 of the Charles Jackson Addition). The closest residential lot with a residential structure is directly adjacent to the applicant’s proposed building from the south. The LC zoned land to the east is developed with a bar / nightclub. The LC zoned land located west is developed with a retail strip store.

Parking requirements for “vehicle repair, general” are 1 space per 500 square feet of building plus 3 spaces. The applicant would need approximately 14 spaces to meet code. “Vehicle Repair, General” is defined by the UZC as an establishment that is primarily engaged in painting of or body work to motor vehicles or heavy equipment, and is first permitted in the GC zone district. If the site is redeveloped as proposed, landscape street yard, parking lot screening and buffer plantings will be required.

CASE HISTORY: This property has been zoned LC since the adoption of the Unified Zoning Code (“UZC”) in 1996 and is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC” Limited Commercial	Retail Strip Store
EAST:	“LC” Limited Commercial	Bar / Nightclub
SOUTH:	“MF-29” Multi Family / “SF-5” Single-Family	Multi & Single Family Residences
WEST:	“LC”, Limited Commercial	Retail Strip Store

PUBLIC SERVICES: Public sanitary sewer service is available to this location. A sewer line runs along the south property line. Public water is available. On-site septic would not be allowed if sewer service is available. Douglas Avenue, at this location, is a four-lane arterial carrying approximately 6,500 average daily trips in 2006.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” map depicts this site as appropriate for “local commercial” uses. The “Comprehensive Plan” commercial locational guidelines state that commercial uses not located in planned centers should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development. The “Wichita Residential Area Enhancement Strategy Map” depicts this site a “revitalization” area. Revitalization areas are neighborhoods experiencing structural and market decline, but market and development opportunities still exist.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to Protective Overlay #192 with the following conditions.

- A. Permitted uses are restricted to those uses permitted by right in the “LC” Limited Commercial district plus “vehicle repair, general.”
- B. All parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries, except where fences are erected, to ensure that parked vehicles do not encroach onto public right-of ways or adjacent properties.
- C. No off-site or portable signs are permitted.
- D. Exterior audio systems shall be prohibited.
- E. All vehicles that are not complete and visually intact or are stored more than 72 hours are to be screened from ground view from abutting / adjoining properties and from abutting streets. Screening shall be of a material approved by the Unified Zoning Code.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood. All nearby properties are zoned LC, SF-5 and MF-29. The nearest GC zoning is located along Douglas Avenue, approximately 500 feet east of the subject site.
- 2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned LC and developed with what appears to be a warehouse / storage structure. The lot fronts Douglas, which is a significant east-west arterial. With the Douglas Avenue frontage, and the LC zoning which allows a wide range of uses, it seems that the site could be developed as zoned.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce additional open storage and a more intense use than is currently permitted on nearby lots. Auto body shops tend to generate more noise and odors than less intense auto repair uses.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The “Wichita Land Use Guide” map depicts this site as appropriate for commercial uses. The “Comprehensive Plan” commercial locational guidelines state that commercial uses not located in planned centers should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development. With the addition of the Protective Overlay to this requested zone change, the property would conform with the comprehensive plan.
5. Impact of the proposed development on community facilities: The proposed body shop would not generate any more traffic than uses permitted under the current zoning.

DERRICK SLCOUM, Planning staff presented the staff report.

BISHOP asked why DAB IV didn’t consider the case?

SLOCUM commented that he couldn’t take an incomplete application to the DAB. He said this case had been scheduled to be heard by DAB IV prior to being presented to the MAPC; however, that DAB date had to be postponed.

MOTION: To approve subject to staff recommendation.

HENTZEN moved, **VAN FLEET** seconded the motion, and it carried (11-0).

TAPE 1, SIDE 2

6. **Case No.: ZON2004-68/CUP2004-60** – II Sik Hong and Deborah K. Hong (owner); MKEC Engineering Consultants, Inc, c/o Greg Allison (agent) Request County zone change from "SF-20" Single Family-Residential to "LC" Limited Commercial and creation of DP-281 Rock Road Plaza Commercial CUP.

A tract of land lying in the North Half of the Northwest Quarter, Section 8, Township 28 South, Range 2 East, of the 6th Principal Meridian, null, Sedgwick County, Kansas; said tract being more particularly described as follows:

BEGINNING at northwest corner of said Northwest Quarter; thence along the north line of said Northwest Quarter N89°13'33"E, 989.18 feet; thence S00°46'27"E, 60.00 feet; thence S42°24'47"W, 317.88 feet; thence S01°05'29"E, 1039.87 feet to the south line of said North Half; thence along said south line S89°33'35"W, 770.05 feet to the west line of said Northwest Quarter; thence along said west line, N01°05'29"W, 1327.16 feet to the POINT OF BEGINNING. Generally located the southeast corner of 31st Street South and Rock Road.

BACKGROUND: The applicant proposes to create a commercial community unit plan, DP-281 Rock Road Plaza Community Unit Plan, on a 24-acre tract (net size 20.99 acres) and rezone a 16-acre tract from “SF-20” Single-family Residential to “LC” Limited Commercial. The property is located on the southeast corner of Rock Road and 31st Street South. The CUP would have five parcels for commercial use. Parcel 1 (1.27 acre) would be located at the intersection. Parcels 3 (1.49 acre) and 5 (1.27 acre) would be small parcels located along Rock Road. Parcel 2 (10.02 acres) would surround Parcel 1 and have frontage on both Rock Road and 31st Street South. Parcel 4 (6.92 acres) would be located farther south and have a narrow strip of land connecting to Rock Road.

The proposed CUP is within the study area of the Joint Land Use Study “JLUS” conducted jointly by Sedgwick County, the City of Wichita and the City of Derby to identify compatible land use with the

continued operation of McConnell Air Force Base, and is within the “AT/FP-O” Anti-Terrorism/Force Protection Overlay District.

Requested uses are those allowed by right in LC except excluding uses considered incompatible due to proximity of the site to McConnell Air Force Base, including the following excluded uses: all residential uses; church or place of worship; college or university; convalescent care facility, limited and general; group home, limited, general and commercial; hospital; library; school, elementary, middle and high; bed and breakfast inn; hotel or motel; vocational school; night club in the city; night club in the county; tavern and drinking establishment; and recreation and entertainment, indoor, adult entertainment establishments, sexually oriented businesses, correctional placement residences, safety service, bed and breakfast inn, hotel and motel, vocational school, night club in the city, pawn shop, agricultural sales and service, and asphalt/concrete plants. Restaurants shall not have drive-through windows or in-car service located within 200 feet of residential zoning and order boards shall not be audible from the residential property lines. No overhead doors shall be permitted within 200 feet of residential zoning and shall not be facing any residential zoning district.

The CUP references the need for noise attenuation methods in construction and a real estate disclosure process of the locating near a military base.

Maximum height is 25 feet. Maximum building coverage would be 30 percent and maximum gross floor area would be 35 percent for each parcel, but the overall total for the CUP would be limited to 30 percent, indicating that densities may be lessened on some parcels if others are built out to the full 35 percent capacity. The number of buildings permitted would be two on Parcels 1, Parcels 3 and 5, and five on Parcels 2 and 4. Setbacks would be 35 feet on along Rock Road and 31st Street South and exterior property lines. Internal setbacks are 15 feet. A six-foot masonry wall would be required along residential zoning, except the applicant asked to waive this requirement along the existing trees if the trees are maintained as a solid screening buffer.

Buildings would have uniform architectural compatibility and parking lots and similar or consistent lighting elements, limited to 24 feet in height (lowered to 15 feet within 100 feet of residential zoning or residential use) and share a similar landscape palette. It includes provisions for cross-lot circulation, internal parking lot circulation and pedestrian connectivity.

Monument signage is requested with a maximum height of 20 feet. Portable and off-site signs would be prohibited. Flashing signs (except for signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights or creating the illusion of movement would be prohibited. Ground signage would be limited to monument style signage with a maximum height of 20 feet and sign face area of 120 square feet per sign, and the total amount of sign face area not exceeding 0.8 times the linear frontage for Rock Road, an arterial street, and 0.5 times linear frontage for 31st Street South, a two-lane urban collector street located across the street from residential use.

The site currently is in agricultural use. The property to the north and west is zoned “AFB” Air Force Base and is the site of McConnell Air Force Base on the west and base housing on the north. The property to the east is zoned SF-20 and is in agricultural use. The property to the south is zoned SF-20 and is in agricultural use, but was approved for LC and DP-300 Rocky Ford CUP subject to platting. Similarly, the property to the southeast is zoned SF-20 and in agricultural use, but was approved for “IP” Industrial Park zoning subject to platting.

CASE HISTORY: The property is not platted. The zone change/CUP request originally was filed in 2004 but was deferred pending the JLUS study and adoption of the AT/FP-O. The request originally included a 19-acre tract to the south that was re-filed and approved for commercial development as a separate tract (CUP2006-32/ZON2006-28 DP-300 Rocky Ford Commercial CUP).

ADJACENT ZONING AND LAND USE:

NORTH:	AFB	Residential (base housing)
SOUTH:	SF-20	Vacant (approved for LC subject to platting)
EAST:	SF-20	Agricultural/undeveloped
WEST:	AFB	McConnell Air Force Base

PUBLIC SERVICES: Currently, Rock Road is improved as a four-lane undivided principal arterial roadway. 31st Street South is a two-lane urban collector. Requested access consists of two full movement openings and one right-in/right-out opening onto Rock Road and one full movement opening and two right-in/right-out openings onto 31st Street South.

Traffic counts in 2006 (county counts) were 17,404 vehicles on Rock Road and 923 vehicles on 31st Street South. The 2030 projection for Rock Road is 31,500 vehicles per day in 2030.

The nearest public water and sewer service are approximately ¼ to ½ mile north of the property.

CONFORMANCE TO PLANS/POLICIES: The “Wichita Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center” use and shows the property as a “Potential Future Park Site”. The employment/industry center recommendation was based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB and the property remains within the “Maximum Mission Area” identified by the Joint Land Use Study. The site is within the anti-terrorism/force protection zone around McConnell.

Commercial Objective III.B encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses”, with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress location. The proposed CUP incorporates architectural and lighting compatibility, similar landscaping, and shared or similar signage. It provides for cross-lot circulation, an overall site circulation and pedestrian circulation plan and a site plan for each parcel to ensure compatibility with the overall plan.

Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use. The CUP incorporates provisions for more restrained signage, less impact from drive-through lanes as well as lighting provisions.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2004-68) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-281), subject to the following conditions:
 1. Transportation improvements (to be added to General Provision #14):
 - a. Continuous accel/decel lanes (including extension of box culvert if necessary) shall be provided for the three access points on Rock Road and shall be platted to be in conformance with Access Management Standards for distance separation.
 - b. Left-turn lanes for the two full-movement entrances on Rock Road shall be provided.
 - c. Additional right-of-way as needed to accommodate the extra lanes shall be provided at platting.

2. No development shall be permitted until public water and sewer is available.
3. The site shall be developed in substantial conformance to the approved community unit plan's site plan, general provisions and individual parcel standards.
4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
6. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
7. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-281) includes special conditions for development on this property.
8. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
9. Add a General Provision to state: "In the event the United States Air Force requests closure of Rock Road in the vicinity of McConnell Air Force Base, the applicant acknowledges there will be a potential loss of business to the properties with the CUP. "

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site currently is in agricultural use. The property to the north and west is zoned "AFB" Air Force Base and is the site of McConnell Air Force Base on the west and base housing on the north. The property to the east is zoned SF-20 and is in agricultural use. The property to the south is zoned SF-20 and is in agricultural use, but was approved for LC and DP-300 Rocky Ford CUP subject to platting. Similarly, the property to the southeast is zoned SF-20 and in agricultural use, but was approved for "IP" Industrial Park zoning subject to platting.
2. The suitability of the subject property for the uses to which it has been restricted: The area is less suitable for the use as currently zoned (suburban residential) since it is within the "Maximum Mission Area" of McConnell Air Force Base and within the one-half mile buffer zone of the base.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions are designed to minimize conflicts between the commercial development and McConnell Air Force Base by limiting heights and eliminating uses the base finds to be an anti-terrorism and force protection risk.
4. Length of time the subject property has remained vacant as zoned: The property is in agricultural use. Water and sewer service has not been extended to the site so that it not ready for urban-type use yet.
5. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: According to a recent article "McConnell Air Force Base puts nearly \$370 million into Wichita's economy, according to Air Force Data. The base itself is worth nearly \$1.4 billion." ("Defending Kansas Bases: McConnell, others hope to avoid closing list," The Wichita Eagle, January 17, 2005, p. 1). The proposed development plan and recommended conditions are designed to lessen concerns of the base.

6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “Wichita Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center” use and shows the property as a “Potential Future Park Site”. The employment/industry center recommendation was based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB and the property remains within the “Maximum Mission Area” identified by the Joint Land Use Study. The site is within the anti-terrorism/force protection zone around McConnell. **Commercial Objective III.B** encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses”, with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress location. The proposed CUP incorporates architectural and lighting compatibility, similar landscaping, and shared or similar signage. It provides for cross-lot circulation, an overall site circulation and pedestrian circulation plan and a site plan for each parcel to ensure compatibility with the overall plan. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use. The CUP incorporates provisions for more restrained signage, less impact from drive-through lanes as well as lighting provisions.
7. Impact of the proposed development on community facilities: The additional traffic is expected to generate significant additional traffic on Rock Road. The accel/decel lanes are designed to mitigate the potential conflicts from traffic entering and exiting the site with the high speed through traffic. Water and sewer lines will need to be extended approximately ¼ to ½ mile or more to serve this and other areas to be developed south of 31st Street South.

GENE RATH, MKEC ENGINEERING, AGENT FOR THE APPLICANT, said in regards to item B. 1. of the staff report, they requested that the language on the final document be “softened” with regard to the accel/decel lanes along Rock Road and where they are located. He said they would like an opportunity to work with City and County staff on this issue. He also mentioned item 9 and said that they had safety concerns if McConnell chooses to close Rock Road.

HILLMAN asked **RATH** if he was referring to points a., b. and c under #1. of the staff report?

RATH said they would like the latitude to work with City and County Engineering staff on the traffic issues, not necessarily when platting goes through, to guarantee a “continuous” lane.

DIRECTOR SCHLEGEL clarified that if the case is approved by the MAPC, it will include the conditions as listed. He suggested if the applicant doesn’t like the language, that it be revised/corrected now. He said staff can’t disregard the conditions of approval after the fact.

RATH commented that he has had conversations with **LONGNECKER** and the Traffic Engineer on the item and had an understanding that the final language on the CUP would be adjusted slightly to allow the latitude he was talking about. He referenced item c, “...shall be provided at platting...” which he said seemed pretty non-specific to them. Responding to a question from **DOWNING** concerning what part of the language they had issue with; **RATH** said “continuous” access/decel lanes.

DIRECTOR SCHLEGEL suggested since the Traffic Engineer was not present to tell the Commission what his intent was, that the Commission defer the item until the next MAPC meeting rather than try to negotiate revisions at this meeting.

BISHOP said she agreed with the suggestion to defer the item and mentioned other complications in the area including the skywalk that definitely hinders vision coming from the north.

MOTION: To defer this item until Staff, the Traffic Engineering and the applicant have come up with language they can agree on.

MITCHELL moved, **ANDERSON** seconded the motion, and it carried (11-0).

7. **Case No.: ZON2007-38/CUP2007-39** – CBB Northlakes LC, c/o Kurt & Brad Bachman, MKEC Engineering Consultants Inc., c/o Greg Allison Request County zone change from "OW" Office Warehouse and "SF-20" Single-family residential to "LC" Limited Commercial and create Commercial CUP on unplatted and platted properties.

A tract of land lying in a portion of the Northwest Quarter of Section 24, Township 26 South, Range 1 West, of the 6th Principal Meridian, Sedgwick County, Kansas, and a portion of the Northeast Quarter of the Northeast Quarter of said Section 24; said tract being more particularly described as follows:

COMMENCING at the North Quarter corner of said Section 24; thence on an assumed basis of bearing along the Half Section Line S00°00'00"E, 60.00 feet to the POINT OF BEGINNING, thence parallel and 60.00 feet south of the north line of the Northeast Quarter of said Section 24, S89°57'34"E, 1259.55 feet to a point lying 65.04 feet east of the west line of the Northeast Quarter of the said Northeast Quarter; thence along said west line, S00°53'19"E, 787.40 feet to a point on a non-tangent curve to the left; thence along said curve 263.08 feet, said curve having a central angle of 11°56'17", a radius of 1262.63 feet, and a long chord distance of 262.60 feet, bearing S06°51'46"E; thence S66°16'15"W, 200.34 feet; thence S54°42'07"W, 64.00 feet to a point on a non-tangent curve to the left; thence along said curve 57.79 feet, said curve having a central angle of 05°48'05", a radius of 570.76 feet, and a long chord distance of 57.77 feet, bearing N38°12'19"W; thence N42°03'45"W, 226.73 feet to a point on a curve to the right; thence along said curve 538.72 feet, said curve having a central angle of 58°01'09", a radius of 532.00 feet, and a long chord distance of 515.99 feet, bearing N13°03'11"W; thence N15°57'24"E, 155.56 feet to a point lying 360.00 feet south of the north line of the Northwest Quarter of said Northeast Quarter; thence parallel with and 360.00 feet south of said north line N89°57'34"W, 806.10 feet to the Half Section line; thence parallel with and 360.00 feet south of the north line of said Northwest Quarter of said Section 24, S89°55'23"W, 798.16 feet; thence N00°04'37"W, 300.00 feet; thence N89°55'23"E, 798.56 feet to the POINT OF BEGINNING. Generally located West of Meridian Avenue on the south side of 53rd Street North.

BACKGROUND: The applicant proposes to create a commercial Community Unit Plan (CUP) containing approximately 20.87 net acres located approximately ¼-mile west of Meridian Avenue on the south side of 53rd Street North. As part of the application, a zone change from "SF-20" Single-family Residential and "OW" Office Warehouse to "LC" Limited Commercial is also requested.

Properties abutting the south side of the site are zoned "SF-20" Single-family Residential and are either unplatted agricultural land or recently platted (the Moorings 10th Addition, approved by MAPC 7-05-07, but not recorded) and not developed. There is a remnant of "OW" Office Warehouse (ZON2002-53/PO #116) also abutting the south side of the site. The west portion of the site was part of this "OW" zoned Northlakes Commercial Addition, which never developed. Further south beyond the undeveloped "SF-20" zoned land there are "SF-5" Single-family Residential zoned residences, platted as various Mooring Additions. West of the site is the remains of the undeveloped "OW" Northlakes Commercial Addition, and more "SF-20" zoned agricultural fields (with horses and shed), ending against the Big Arkansas River, less than ¼-mile from the site. Undeveloped "SF-20" zoned land abuts the site's east side. Further east there is 80-acres of developing "LC" zoned land (ZON2005-42/CUP2005-46) that ends at Meridian Avenue, less than ¼-mile from the site. North of the site, across 53rd Street North, properties are zoned "SF-20" and "LC" with a CUP overlay (ZON2006-25/CUP2006-24). Some of the "SF-20" zoned

properties are developed as large lot single-family residences (Denton-McWorter Addition, 4-24-1951, built anywhere from 1930 to 1980 or trailers), a nonconforming nightclub or agricultural fields. The “LC” zoned property has a Wal-Mart being constructed on it.

The proposed CUP has eight parcels, with the west six, Parcels 1-6, separated from Parcels 7 & 8 by what appears to be public right-of-way. Parcel 8 is the only parcel that does not have frontage along 53rd. Parcels 1-7 propose all “LC” uses that are permitted by right. Specific prohibited uses include group residences, general and limited, correctional placement residences, general and limited, private recycling stations, recycling collection stations, major and minor utilities, heliports, kennels, night clubs, pawn shops, sexually oriented businesses, cemeteries, all industrial, manufacturing and extraction uses and all Conditional Uses that can be considered in the “LC” zoning district. Parcel 8 shall be restricted to “NR” Neighborhood Retail and “GO” General Office uses permitted by right (no consideration of these zoning districts Conditional Uses), but not their size limits. Parcel 8 shall also be allowed to have animal care, limited and indoor recreation and entertainment. Specific prohibited uses called out are correctional placement residences, general and limited and sexually oriented businesses. Comments on the development guidelines are in the “Recommendation” portion of this report.

CASE HISTORY: ZON2002-53 rezoned what is now the west portion of the site from “SF-20” to “OW” with a Protective Overlay, PO #116. This “OW” portion of the site was recorded with the Sedgwick County Register of Deeds as the Northlakes Commercial Addition July 2, 2003. The Northlakes Commercial Addition was never developed.

ADJACENT ZONING AND LAND USE:

NORTH: “SF-20”, “LC” Single-family residences, non-conforming night club, Wal-Mart under construction, undeveloped
SOUTH: “SF-20”, “OW” Undeveloped, proposed single-family subdivision
EAST: “SF-20”, “LC” agricultural fields, undeveloped
WEST: “OW”, “SF-20” Undeveloped, agricultural fields

PUBLIC SERVICES: Meridian is a major county arterial connecting Valley Center to Wichita. 53rd Street North is a major county arterial. 53rd is widened at the Meridian intersection (75-feet) then tapers to two lanes with shoulders (30-feet). Guarantees for a left turn lane and decel lane into major openings will be required at the time of platting. Additional right-of-way to meet the 60-foot half-street standard will be required at the time of platting. Sewer service is available to a portion of the site and will have to be extended to the rest of the site. Water will have to be extended to the site. Drainage utilities will have to be designed and installed.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this area as appropriate for “urban development mix.” The area is located within the “Wichita 2030 urban growth area.” Urban development mix is seen as primarily being a mix of urban residential uses but with some other local commercial and institutional uses. It also stated, “In certain areas, especially those with proximity to the future Northwest Bypass, there is the possibility that future uses may include Regional Commercial and Employment/Industry Center” uses. This could be viewed as one of those areas since it is the crossroad between a major county arterial (Meridian) connecting Wichita with Valley Center and a significant county arterial (53rd Street North) connecting Park City and I-135 to Maize and K-96 Highway.

Commercial Objective III.B encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses,” with Strategy III.B.1 seeking to channel new strip commercial uses to areas identified on the “Wichita Land Use Guide,” and Strategy III.B.2 seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials and combined ingress/egress locations. Commercial Locational Guideline #3 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design

features that limit noise, lighting and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: The request coat tails the 2006 approval of 80-acres of “LC” zoning with a CUP overlay on the adjacent northern property, located across 53rd Street North. This earlier approval exceeded the expectations of commercial development in the area, as it was initially indicated on the May 2005 amendments to the Comprehensive Plan. The area is posed to become a regional commercial destination for the north central portion of Sedgwick County and its small cities. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year and subject to the following conditions:

1. Approve the zone change (ZON2007-00038), subject to platting the entire property within one year.
2. Approve the Community Unit Plan (DP-306), subject to the following conditions:
 - a. Guarantee a left turn lane and decel lane at the time of platting.
 - b. Show a 35-foot setback along the south parcel lines of parcels 1-6 & 8. Show a 35-foot setback line along the east side of Parcel 6. Show a 35-foot setback line along the west & east side of Parcels 7 & 8. Show a 35-foot setback along the east side of Parcel 1.
 - c. Delete “indoor entertainment and recreation” from 3 B (Uses).
 - d. Delete “with” and use” or” residential uses” from 6 D (Lighting). Delete “School as a residential use.”
 - e. Delete “reasonable” from 7 B (Screening). Replace with “individual” solid screening for trash receptacles. and “appropriately screened” for loading areas, outdoor storage or loading docks.”
 - f. To the opening paragraph of 7 E (Screening), add, “a masonry wall will be installed along the east side of Parcel 7, unless the abutting eastern property is rezoned to a non residential zoning.” Add “a masonry wall shall be provided along the west side of Parcel 1, if the abutting western property is rezoned residential.” Add if any outdoor storage, drive throughs, or ATMs are on Parcel 8, a masonry wall will be installed along the east parcel line.
 - g. Delete 7 E 1 (Screening); reference to waiving the masonry wall requirements on the south side of Parcels 1-6.
 - h. Delete “semi-solid” from 7 F (Screening).
 - i. Delete the second sentence from 8 (Setbacks).
 - j. Add to the opening statement of 9 (Signs) “No LED signs allowed on Parcel 8.”
 - k. Delete “project title signs” from 9 B (Signs).
 - l. Reduce the “150-square feet of sign face area” to “120-square feet of sign face area” for additional monument signs in 9 C (Signs).
 - m. Delete “six (10) signs” and put “10” signs, in 9 D (Signs).
 - n. Per 9 E (Signs), add “No building wall signs on the south elevations of Parcels 2-6, or on the east elevation of Parcel 7. Add “Building wall signs on Parcel 8 will be located on the front elevation of the building and have no direct, indirect, or background lighting.” Add “not to exceed 0.5 times the linear frontage of the collector street” in reference to the total amount of sign face area: this is in reference to Parcels 6, 7, and 8. Delete the word “each” in front of arterial.
 - o. The site shall be developed in substantial conformance to the approved community unit plan’s site plan, general provisions and individual parcel standards.
 - p. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 - q. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.

- r. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds. Failure to complete the plat within one year after approval by the governing body will result in the case being denied and closed, unless a platting extension has been granted.
- s. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-306) includes special conditions for development on this property.
- t. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is in transition from agricultural fields and older, large lot single-family residences (Denton-McWorter Addition, 4-24-1951) located in the County to urban scale single-family residences (the Moorings 10th Addition, approved by MAPC 7-05-07) and commercial development soon to be annexed into the City. The 2006 approval of 80-acres of "LC" zoning with a CUP overlay (ZON2006-25 & CUP2006-24) on the northwest corner of 53rd and Meridian will accelerate the change in the character of the area on a scale not initially contemplated. A Wal-Mart is currently under construction on a portion of this 80-acres.
2. The suitability of the subject property for the uses to which it has been restricted: The proposed CUP is located along an arterial road, with most of it opposite the previously mentioned 80-acres of developing "LC" zoned, CUP overlaid property; the subject site is located where commercial development would be anticipated. The subject site could still be developed as single-family residential, although its adjacent location to the 80-acres of proposed commercial development has probably made that less likely.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will generate significant increases in traffic, demand for sewer and water service and drainage utilities. The code required platting, associated improvement guarantees, screening, setbacks, landscaping, and development standards offered by the applicant will address anticipated negative impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval will increase the number of retail outlets, the services they offer and their accompanying employment opportunities in what was recently an area of the County that had few of these possibilities. Denial will presumably cause a loss of economic opportunity for the developer.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed CUP is in general conformance with adopted commercial policies, objectives and strategies and land use location guidelines for minimizing detrimental impacts, as outlined above.
6. Impact of the proposed development on community facilities: Commercial development on the site will increase traffic volumes on the abutting and adjacent roads. Sewer service is available to a portion of the site and will have to be extended to the rest of the site. Water will have to be extended to the site. Drainage utilities will have to be designed and installed. The required platting of the site and the required improvements and guarantees for improvements will address these services needs.

BILL LONGNECKER, Planning staff presented the staff report.

LONGNECKER stated that there was a revision to the staff report to say building wall signs are allowed on parcel 8 but with no direct, indirect, or background lighting.

Responding to a question from **BISHOP**, **LONGNECKER** clarified that no off site signs were allowed.

GENE RATH, MKEC ENGINEERING, AGENT FOR THE APPLICANT said they have talked to the Traffic Engineer and are in agreement with staff comments.

MOTION: To approve subject to staff recommendation.

HILLMAN moved, **MITCHELL** seconded the motion, and it carried (11-0).

SHERMAN clarified that the motion included staff's revised conditions.

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8. **Case No.: CON2007-29** – Douglas & Washington Dev. LLC/ Attn: Bradley Tidemann (owner) Lloyd Beynon (applicant) Request City conditional use for vehicle sales (indoor only) on property zoned "LC" Limited Commercial in the "D-O" Delano Overlay District.

Lot 84 on Douglas Ave, West Wichita Addition to Wichita, Sedgwick County, Kansas. Generally located South of Douglas and east of Oak Street (621 W Douglas).

BACKGROUND: The applicant requests a conditional use to permit indoor vehicle sales on a 0.08-acre property zoned LC Limited Commercial located on the south side of Douglas Avenue and east of Oak Street. The subject property is located within the Delano Overlay (D-O) district. The applicant currently leases the subject property. Sec. III-C.8.b (2) of the Unified Zoning Code (UZY) specifies "Vehicle and Equipment Sales (indoor)" as a conditional use within the D-O district.

A mix of office and commercial uses with GC General Commercial and LC Limited Commercial zoning along both sides of Douglas Avenue, and surrounding the subject site, characterizes the immediate area. Properties both north and east of the site are zoned LC Limited Commercial, occupied by commercial and office uses. The remainder of the block to the south and west of the site is zoned GC and occupied by a variety of commercial uses. The nearest residential zoning and use is about 250 feet away to the south.

The building on the subject property has an existing garage door, accessible from the platted alley immediately south. The applicant submitted the attached site plan illustrating the proposed parking area, behind the building, and access to the site from the front and the rear. No alterations to the structure are needed for the proposed use. The applicant has indicated that the use will be limited to the display of motor scooters and the recommended conditions of approval reflect this request.

CASE HISTORY: The subject property is platted as part of the West Wichita Addition (1912).

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Commercial Retail
SOUTH:	GC	Warehousing, Vacant Commercial Lots
EAST:	LC	Commercial Retail
WEST:	GC	Financial Services, Commercial Retail

PUBLIC SERVICES: The subject property has one point of access to Douglas Avenue, which is a two-lane minor arterial with diagonal parking on both sides and a daily traffic count of approximately 9,260. The CIP does not propose any projects at this location, as improvements have been completed in the last

two to three years. There is also a platted, improved alley adjacent to the south of the subject property. Municipal water and sewer currently serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for Local Commercial development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

The Commercial Locational Guidelines of the Comprehensive Plan also recommend that auto sales lots and other types of infrequent purchases or non-neighborhood serving commercial uses be guided to areas containing similar uses, and away from neighborhood commercial areas. However, the nature of the requested conditional use confines the use to the building interior, with no renovations required. In fact, as proposed, the use will be indiscernible from the exterior of the building.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The subject property shall comply with the requirements of Section III-C.8(c) (D-O Delano Overlay district standards) of the Unified Zoning Code, as applicable.
2. There shall be no outdoor sales, display or storage of vehicles allowed upon the subject property.
3. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
4. Any automotive service or repair work conducted on the site shall be entirely within a building.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the conditional use is null and void.

The staff recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: A mix of office and commercial uses with GC General Commercial and LC Limited Commercial zoning along both sides of Douglas Avenue, and surrounding the subject site, characterizes the immediate area. Properties both north and east of the site are zoned LC Limited Commercial, occupied by commercial and office uses. The remainder of the block to the south and west of the site is zoned GC and occupied by a variety of commercial uses. The nearest residential zoning and use is about 250 feet away to the south.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC Limited Commercial and is currently used for a variety of office uses. Absent the Delano Overlay, the property could be used for indoor vehicle sales without the conditional use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As proposed and recommended the conditional use should be indiscernible from the building exterior. Therefore, there should be no detrimental impacts to surrounding residential areas.
4. Conformance of the requested change to adopted or recognized Plans/Policies:
The Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for Local Commercial development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and

should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines of the Comprehensive Plan also recommend that auto sales lots and other types of infrequent purchases or non-neighborhood serving commercial uses be guided to areas containing similar uses, and away from neighborhood commercial areas. However, the nature of the requested conditional use confines the use to the building interior, with no renovations required. In fact, as proposed, the use will be indiscernible from the exterior of the building.

5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

DERRICK SLOCUM, Planning staff presented the staff report.

MOTION: To approve subject to staff recommendation.

ANDERSON moved, **SHERMAN** seconded the motion, and it carried (11-0).

The Metropolitan Area Planning Department informally adjourned at 2:32 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2007.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)